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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE
COMPANY,

USA CAPITAL REALTY ADVISORS,
LLC,¹

USA CAPITAL DIVERSIFIED TRUST
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED
FUND, LLC,²

USA SECURITIES, LLC,³

Debtors.

Affects:

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR¹
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR²
Case No. BK-S-06-10729-LBR³

CHAPTER 11

Jointly Administered Under Case No.
BK-S-06-10725 LBR

**DECLARATION OF GEOFFREY L.
BERMAN IN SUPPORT OF
OMNIBUS OBJECTIONS OF
USACM TRUST TO PROOFS OF
CLAIM BASED UPON
INVESTMENT IN ATLANTIC
OCEAN \$9,425,000**

Date of Hearing: May 9, 2011
Time of Hearing: 2:00 p.m.
Estimated Time for Hearing: 10 minutes

Geoffrey L. Berman declares under penalty of perjury:

1. I am an adult person competent to testify in court.
2. I make this declaration based upon my personal knowledge, and upon the records USA Commercial Mortgage Company.

¹ This bankruptcy case was closed on September 23, 2008.

² This bankruptcy case was closed on October 12, 2007.

³ This bankruptcy case was closed on December 21, 2007.

3. I am the Trustee of the USACM Liquidating Trust (“USACM Trust”), which is an entity created by the Debtors’ Third Amended Joint Chapter 11 Plan of Reorganization (“Plan”), in the jointly-administered bankruptcy cases, In re USA Commercial Mortgage Company, BK-S-06-10725-LBR, pending in the United States Bankruptcy Court for the District of Nevada.

4. In or around October 2005, USACM circulated an Offer Sheet to prospective Direct Lenders soliciting funding for an acquisition and development loan to a borrower identified as “Ocean Atlantic/PFG-Westbury, LLC.” A copy of the undated Offer Sheet is attached hereto as **Exhibit B** and incorporated by this reference. The total loan amount proposed was \$9,425,000. The loan proceeds were to be used by Borrower to refinance and complete pre-development costs on land located in Yorkville, Illinois. The Offer Sheet described the investment as a “First Trust Deed Investment” and noted that the investment would be secured by a first deed of trust on 127.18 acres of land with a “prospective value of \$14.5 million based on an appraisal from Argianas and Associates, Inc. dated June 28, 2005.”

5. The Offer Sheet indicated that the loan would be repaid through a later refinancing, with a loan to value ratio of approximately 65% based upon the Argianas and Associates, Inc. appraisal. There is a copy of the appraisal in USACM’s file and the prospective value estimated there supports the loan to value ratio represented in the Offer Sheet.

6. On January 23, 2006, Borrower made and delivered to various lenders, including the Direct Lenders identified in **Exhibit A**, a “Promissory Note Secured by Mortgage” (the “Note”) and a Loan Agreement. The Note and Loan Agreement provided for a loan in the initial principal amount of \$8,300,000. The loan was intended to refinance the property and for engineering and legal costs for entitlements and land development. Pursuant to subsequent amendments to the Note and Loan Agreement, and

as expressly permitted by the Loan Agreement, the amount of the loan eventually increased to \$8,925,000. The Note was secured by a Mortgage, Assignment of Rents, Security Agreement and Fixture Filing (the “Mortgage”) that was recorded in the official records of Kendall County, Illinois on February 14, 2006. Subsequent loan advances were secured by amendments to the Mortgage, and were likewise recorded in the official records of Kendall County, Illinois. The USACM Trust is aware of no evidence that USACM offered to or did execute any guaranty of the Direct Lenders’ Investment in this loan. Rather, the loan was guaranteed by Ocean Atlantic Service Corporation pursuant to a January 23, 2006 Unconditional Repayment and Completion Guaranty.

7. Pursuant to its terms, the note was scheduled to mature in January 2007, twelve months after the Note was signed. According to the USACM “Loan summary” filed in this case, Borrower was “Non Performing” as of July 31, 2006.

8. Based on a Sheriff’s Deed recorded in Kendall County, Illinois on December 28, 2009 at Document Number 200900027299, Compass or Compass’s successor in interest foreclosed on the Mortgage on October 28, 2009, with property conveyed to Asset Resolution LLC. A copy of the Sheriff’s Deed is attached to the hereto as **Exhibit C**.

9. The USACM “Loan Summary” dated February 28, 2007 filed in this case indicated that the Borrower was “Interest Default” by that date.

10. During this bankruptcy case through the transfer of servicing to Compass, USACM treated the Direct Lenders with respect to any interim payments by the borrower in accordance with the Court’s orders and the confirmed Plan. The USACM Trust has not been able to determine the ultimate disposition of the Ocean Atlantic \$9.425 loan and the collateral securing that loan or whether the Direct Lenders were, or may eventually be, repaid in whole or in part.

11. Pursuant to a June 24, 2010 Order on Trustee's Motion to Approve Transfer of Loan Servicing Agreements and Related Rights, entered in Asset Resolution, LLC, Bankruptcy Case No. 09-3824, the servicing of this loan was transferred to Cross FLS

I declare under penalty of perjury that the foregoing is true and correct.

Dated: March 31, 2011

/s/Geoffrey L. Berman

Geoffrey L. Berman

Copy of the foregoing (without exhibits)
mailed by first class postage prepaid
U.S. Mail on March 31, 2011 to the
investors in the Ocean Atlantic \$9.425m loan
listed on Exhibit A.

s/ Marie Mancino

Marie Mancino
Lewis and Roca LLP